

MAINE REVENUE SERVICES

RULE NO. 104

ELECTRONIC FILING OF MAINE TAX RETURNS

SUMMARY: This rule describes the requirements for mandatory electronic filing of certain Maine tax returns.

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.01 DEFINITIONS

As used in this rule, the following terms have the following meanings:

A. **“Electronic Filing”** or **“Electronic data submission”** means the use of a computer, internet, or any other means of electronic submission of data to transmit return or document information in a manner prescribed by the State Tax Assessor.

B. **“Original Maine tax return”** means Maine individual income tax returns, sales/use/service provider tax returns, or income tax withholding returns (Forms 941ME and 941/ C1ME) and annual reconciliation of Maine income tax withheld (Form W-3ME), but does not include amended versions of these returns.

C. **“Person”** means an individual, firm, partnership, association, society, club, corporation, financial institution, estate, trust, receiver, assignee or any other group or combination acting as a unit, other than the State or Federal Government or any political subdivision or agency of either government.

D. **“Prepares”** means completing original Maine tax returns directly or through employees.

E. **“Tax return preparer”** means a person that prepares original Maine tax returns, or who employs one or more employees to complete original Maine tax returns. An employee of a tax return preparer is not considered a tax return preparer for purposes of this rule.

.02 MANDATORY PARTICIPATION - individual income tax returns

A. For returns filed in calendar year 2008, a tax return preparer must file by electronic data submission all original Maine tax returns for individual income tax that are eligible for electronic filing, except:

1. Where for calendar year 2007 the tax return preparer prepared less than 200 original Maine tax returns for individual income tax that are eligible for electronic filing;
2. Where the taxpayer refuses to allow the return to be filed by electronic data submission and the tax return preparer notes the refusal in the taxpayer's records;
or
3. Where the tax return preparer has been granted a waiver from mandatory participation under section .05.

B. For returns filed in calendar year 2009, a tax return preparer must file by electronic data submission all original Maine tax returns for individual income tax that are eligible for electronic filing, except:

1. Where for calendar year 2008 the tax return preparer prepared less than 100 original Maine tax returns for individual income tax that are eligible for electronic filing;
2. Where the taxpayer refuses to allow the return to be filed by electronic data submission and the tax return preparer notes the refusal in the taxpayer's records;
or
3. Where the tax return preparer has been granted a waiver from mandatory participation under section .05.

C. For returns filed in calendar year 2010 or any subsequent calendar year, a tax return preparer must file by electronic data submission all original Maine tax returns for individual income tax that are eligible for electronic filing, except:

1. Where for the previous calendar year, the tax return preparer prepared less than 50 original Maine tax returns for individual income tax that are eligible for electronic filing;
2. Where the taxpayer refuses to allow the return to be filed by electronic data submission and the tax return preparer notes the refusal in the taxpayer's records;
or
3. Where the tax return preparer has been granted a waiver from mandatory participation under section .05.

.03 MANDATORY PARTICIPATION – sales, use and service provider tax returns

A. For returns filed in calendar year 2008, a person preparing original Maine tax returns for sales, use or service provider tax with a tax liability of \$200,000 or more for any one tax for the 12-month period ending September 30, 2007, must file all the original Maine tax returns for sales, use or service provider tax by electronic data submission.

B. For returns filed in calendar year 2009, a person preparing original Maine tax returns for sales, use or service provider tax with a tax liability of \$100,000 or more for any one tax for the 12-month period ending September 30, 2008, must file all the original Maine tax returns for sales, use or service provider tax by electronic data submission.

C. For returns filed in calendar year 2010 or any subsequent calendar year, a person preparing original Maine tax returns for sales, use or service provider tax with a tax liability of \$25,000 or more for any one tax for the 12-month period ending September 30 of the previous year, must file all the original Maine tax returns for sales, use or service provider tax by electronic data submission.

.04 MANDATORY PARTICIPATION - income tax withholding returns

A. For returns filed for calendar year 2008 withholding:

1. Employers with 75 or more employees in 2008 that are subject to Maine income tax withholding must electronically file all original Maine tax returns of quarterly and annual reconciliation for Maine income tax withholding for 2008.
2. Third party filers or payroll processors, as defined in 10 M.R.S.A., chapter 222, of quarterly Maine withholding returns for an employer with 75 or more employees in 2008 that are subject to Maine income tax withholding must electronically file all original Maine tax returns of quarterly and annual reconciliation for Maine income tax withholding for 2008.
3. Third party filers or payroll processors, as defined in 10 M.R.S.A., Chapter 222, with 75 or more client employers in 2008 that are required to file Maine income tax withholding returns under 36 M.R.S.A., chapter 827, or make competitive skills scholarship fund or unemployment compensation insurance payments under 26 M.R.S.A., chapter 13, subchapters 5 and 7, must electronically file all original Maine tax returns of quarterly and annual reconciliation for Maine income tax withholding for 2008.
4. Non-wage payers with 75 or more payees in 2008 that are subject to Maine income tax withholding under 36 M.R.S.A. § 5255-B must electronically file all original Maine tax returns of quarterly and annual reconciliation for Maine income tax withholding for 2008.

5. Pass-through entities with 75 or more nonresident members in 2008 that are subject to pass-through withholding on Maine source income must electronically file all original Maine tax returns of quarterly and annual reconciliation for Maine income tax withholding for 2008.

B. For returns filed for withholding in calendar years after 2008:

1. Employers with 50 or more employees in any calendar year after 2008 that are subject to Maine income tax withholding must, for that calendar year, electronically file all original Maine tax returns of quarterly and annual reconciliation for Maine income tax withholding.

2. Third party filers or payroll processors, as defined in 10 M.R.S.A., chapter 222, of quarterly Maine withholding returns for an employer with 50 or more employees in any calendar year after 2008 that are subject to Maine income tax withholding must, for that calendar year, electronically file all original Maine tax returns of quarterly and annual reconciliation for Maine income tax withholding.

3. Third party filers or payroll processors, as defined in 10 M.R.S.A., chapter 222, with 50 or more client employers in any calendar year after 2008 that are required to file Maine income tax withholding returns under 36 M.R.S.A., chapter 827, or make competitive skills scholarship fund or unemployment compensation insurance payments under 26 M.R.S.A., chapter 13, subchapters 5 and 7, must, for that calendar year, electronically file all original Maine tax returns of quarterly and annual reconciliation for Maine income tax withholding.

4. Non-wage payers with 50 or more payees in any calendar year after 2008 that are subject to Maine income tax withholding under 36 M.R.S.A. § 5255-B must, for that calendar year, electronically file all original Maine tax returns of quarterly and annual reconciliation for Maine income tax withholding.

5. Pass-through entities with 50 or more nonresident members in any calendar year after 2008 that are subject to pass-through withholding on Maine source income must, for that calendar year, electronically file all original Maine tax returns of quarterly and annual reconciliation for Maine income tax withholding.

.05 REQUEST FOR WAIVER FROM MANDATORY PARTICIPATION

The State Tax Assessor shall waive the requirement to participate where the Assessor determines that the requirement causes undue hardship. A person subject to mandatory participation in sections.02, .03 or .04 may request a waiver from participation by submitting a waiver request in writing that clearly indicates the tax-type for which the waiver is requested, the undue hardship that the person states will be caused by complying with the electronic filing requirements, and the date by which the person

intends to be in compliance. A determination by the State Tax Assessor under this section is subject to the administrative appeal provisions of 36 M.R.S.A. §151.

.06 PENALTIES

Failure to file returns electronically as required by this rule is subject to the penalty under 36 M.R.S.A. §187-B (5-B). Penalties shall be waived or abated for reasonable cause pursuant to 36 M.R.S.A. §187-B(7).

AUTHORITY: 36 M.R.S.A. §193.

EFFECTIVE DATE: February 11, 2008